

# In the United States Court of Federal Claims

AMES 1, LLC,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

No. 22-cv-0196

Filed: March 31, 2022

## ORDER

For the reasons stated on the record on March 31, 2022, this Court **DENIES as moot** Plaintiff's Motion for Judgment on the Administrative Record (ECF No. 15) and **DENIES as moot** Defendant's Cross Motion for Judgment on the Administrative Record (ECF No. 16) given this Court's ruling in *Frawner Corporation v. United States*, No. 22-cv-0078, granting in part Frawner Corporation's Motion for Judgment on the Administrative Record. This Court's ruling in *Frawner* enjoins Defendant United States from awarding and/or proceeding with any award under the Solicitation other than to SD Construction. (*Frawner*, ECF No. 33.) This Order does not impact Defendant's ability to use other contracting methods to fulfill its contracting needs, if lawful and appropriate. (*Frawner*, ECF No. 31.) In *Frawner*, this Court also ordered that if Defendant opts to continue with awards under the Solicitation, it shall undertake corrective action consistent with this Court's ruling on the record and the following conditions:

1. Defendant shall not automatically assign as the overall "Relevancy" rating for a past performance effort the adjectival rating of the lowest rated "Relevancy" subfactor;

2. Defendant shall not treat the “magnitude” subfactor as a binary factor where past performance efforts valued above \$2 million receive a “Not Relevant” rating for that subfactor and past performance efforts valued below \$2 million receive a “Very Relevant” rating for that subfactor; rather, Defendant shall, to the extent it applies adjectival ratings to “Relevancy” subfactors, employ the full range of such ratings as defined in the Solicitation; and
3. Defendant shall conduct a best value trade-off analysis by documenting whether benefits of an offeror’s proposal outweigh any potential higher cost for the Government.

The Court issues this Order considering the expedited briefing in this case and the parties’ request for prompt resolution of this issue. As noted on the record and as agreed to by the parties, the Court will issue a more fulsome opinion regarding its decision at a later date.

IT IS SO ORDERED.

s/ Eleni M. Roumel  
ELENI M. ROUMEL  
Judge